

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF)
LIZZIE LAAS,)
Appellant,)
v.)
STATE OF WASHINGTON,)
DEPARTMENT OF ECOLOGY,)
Respondent.)

PCHB No. 78-176

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

This matter, the appeal of an Order of Cancellation of a ground water permit, came before the Pollution Control Hearings Board, Dave J. Mooney, Chairman, Chris Smith, and David Akana (presiding), at a formal hearing in Tacoma, Washington on October 19, 1978.

Appellant appeared pro se and by Donnie Laas; respondent was represented by Robert E. Mack, Assistant Attorney General.

Having heard the testimony, having examined the exhibits, and having considered the contentions of the parties, the Board makes these

DAA/LB

1 FINDINGS OF FACT

2 I

3 Respondent, in its scheduled review of all permits for withdrawal
4 of artificially stored ground water in the Quincy subarea, ascertained,
5 and we so find, that appellant did not complete well construction and place
6 water to full beneficial use on her property in such area by March 11,
7 1978, the deadline set forth in the permit. Appellant was sold her property
8 in 1975 with the representation that irrigation water came with it. In
9 October of 1977, the permit at issue was finally assigned to her, six
10 months before permit termination. On March 13, 1978 respondent issued a
11 notice which required appellant to show good cause why the permit should
12 not be cancelled. After considering its file in the instant matter,
13 respondent determined that good cause was not shown and issued an order
14 cancelling appellant's permit on June 8, 1978, which was received on
15 June 13, 1978.

16 II

17 Appellant is an 84 year old immigrant from Russia who neither
18 speaks nor writes English well, and has difficulty understanding the
19 department's regulations and materials. At a crucial time during the
20 period for appeal to this Board, appellant was in the hospital ill.
21 Consequently, the appellant's appeal was filed with the assistance of
22 her grandson, on July 20, 1978, seven days late.

23 III

24 The department would not be prejudiced in any manner if the
25 appellant was allowed to appeal the department's order.

26 FINAL FINDINGS OF FACT,
27 CONCLUSIONS OF LAW
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1 IV

2 The department acted reasonably upon the facts available to it
3 at the time it issued the order cancelling the permit. The department
4 did not consider all relevant facts pertaining to the instant permit
5 which were brought out at the hearing before this Board.

6 V

7 Any Conclusion of Law which should be deemed a Finding of Fact
8 is hereby adopted as such.

9 From these Findings the Board comes to these

10 CONCLUSIONS OF LAW

11 I

12 Appellant's appeal was not filed with this Board within thirty
13 days of her receipt of the order as required by chapter 43.21B RCW,
14 and is therefore not timely.

15 II

16 The time requirement for filing an appeal of the department's order
17 need not be strictly applied to appellant under the facts and
18 circumstances of this case, and we assume jurisdiction of the matter.
19 Rodriguez v. Department of Labor and Industries, 85 Wn.2d 949 (1975).

20 III

21 The department did not consider all the facts in this matter and
22 should have an opportunity to do so before we review its actions.
23 Accordingly, we vacate the Order of Cancellation and remand the matter
24 to respondent for further consideration and issuance of an order
25 appropriate to the permit here in question.

6 FINAL FINDINGS OF FACT,
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IV

Any Finding of Fact which should be deemed a Conclusion of Law is hereby adopted as such

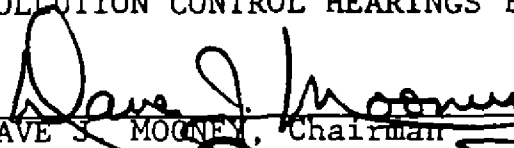
From these Conclusions the Board enters this

ORDER

The Order of Cancellation is vacated and the matter is remanded to the department for further proceedings.

DONE this 30th day of October, 1978.

POLLUTION CONTROL HEARINGS BOARD


DAVE S. MOONEY, Chairman


CHRIS SMITH, Member


DAVID AKANA, Member

FINAL FINDINGS OF FACT,
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